



STATE OF DELAWARE  
DEPARTMENT OF AGRICULTURE  
DELAWARE HARNESS RACING COMMISSION  
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## Minutes of the Rules Committee Meeting May 4, 2010

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The Rules Committee met for a meeting at the Department of Agriculture  
in Dover, Delaware at 10:15 AM

### Committee Members Present

Beth Steele, DHRC Chairman	Andrew Kerber, DAG, Commission Counsel
James Boese, General Manager, HRI	Charles Lockhart, VP, Horse Racing, D. Downs
Karen Craft, Facilities Manager, HRI	Salvatore DiMario, Executive Director, DSOA
Judy Davis-Wilson, Administrator, DSBF	George Staats, DHRC Commissioner
John Hensley, Sr. Dir., Horse Racing, D. Downs	Jo-Ann Price, DHRC Paralegal

### Others Present

Scott Egger, DHRC Presiding Judge	Mark Davis, Dep. Principal Assistant, DDA
Edwin Kee, Secretary of Agriculture, DDA	

#### CALL TO ORDER/WELCOME

Chairman Steele called the public session of the meeting to order at 10:29 AM and welcomed all in attendance.

#### APPROVAL OF MINUTES

Chairman Steele moved to approve the March 2, 2010 Minutes as written. Mr. Boese seconded; the Motion passed unanimously.

#### OLD BUSINESS

None offered.

#### NEW BUSINESS

##### Rule 5.1.8.7 (Substance abuse)

Mr. Kerber explained this came up for discussion due to the fact that a DHRC license was given to a licensee who had a human drug test which came up

positive. Normally, every sample was split, but this licensee asked to have it DNA tested (meaning the licensee wanted the sample checked against his DNA to prove that it came from him – the argument was that it was not his urine). We have a well established chain of custody, but spoke to our contractor, who said DNA testing was a terrible idea; none of his clients allow it, and the feds prohibit it in their regs. Mr. Kerber also spoke to a federal government professional in the drug testing division, who confirmed that they in fact do not allow it. Dan Caldwell watches licensees urinate into the container. It looks like when the rule was

written there was no consideration of DNA testing where it referred to allowing a second test. Discussion on Rule 5.1.8.7 “When the sample quantity permits...” included: clarifying the language to make it an independent “drug analysis or an “independent analysis for drugs,” the reasons why a licensee might want a DNA test done, some of the rumors that have been passed around the track about this issue, why DHRC or the State would want to do something that the federal government does not, the process of splitting the sample, who pays for the splits, the 5-year-old Whizzanator technology, and the efficacy of our

current procedures for collecting urine samples. The consensus of the committee was to strengthen the rule by adding the word “drug” before “analysis” (making it “an independent drug analysis of the sample.” and inserting it into the normal rule making process. Mr. Kerber will prepare proposed language and distribute it for discussion at next week’s regular DHRC meeting, where the proposal for the change will be heard. Commissioner Staats made a motion to accept the proposed language, Mr. Boese seconded, and it passed unanimously.

#### *Rule 7.6.6.7.7 (Starting gate)*

Mr. Boese moved to accept Mr. Egger’s proposed language from the February 2, 2010 Rules Committee meeting; Chairman Steele seconded, and it passed unanimously. This will be moved into the formal rule making process at the next DHRC meeting.

#### *Rule 5.1.22 (Conflict of interest)*

Mr. Lockhart shepherded the discussion on this rule, stating that there was some confusion with Rule 3.1.4.6, which was a result of discussions over the years. He suggested we re-examine the Rule 5 language and decide where the line should be drawn. Ex-investigator

Bob Collison had stated that without that particular familial conflict language, there wouldn’t be anyone who could work for the DHRC. Discussion on this issue included: conflicts have always existed; should they be ignored or dealt with; limitations/exceptions have been brought in - to what advantage, should officials have no relatives racing; the current rule should be enforced; these two rules are inconsistent; what is actually reasonable when Delaware is such a small community; it’s next to impossible to fix. Racing officials have to give up their racing licenses. For Rule 5.1.22.4, Mr. Lockhart said to delete everything after the semicolon and use Rule 3.1.4.6 to clean up, which addresses who is an owner/trainer. As it’s written, the DHRC has the discretion to decide if the official’s relative causes a conflict that it is not comfortable with and can deal with on an individual basis. It allows the flexibility that is needed in this business. Mr. Boese commented that what has been done in the past is not to allow the official to work *in that race* on that day. Mr. Kerber agreed that seemed acceptable. Mr. Hensley added that blanket permission has been given to everyone to participate. Mr.

Lockhart made a motion to strike after “provided further” through “official.” Mr. Hensley seconded, and the motion passed unanimously. Mr. Kerber will finalize language to present to the DHRC at next week’s meeting.

*Conflict with trainers:* Mr. Lockhart distributed a color coded sheet with examples of conflicts of current participants who are licensed, training, and driving horses and offered several suggestions to change 5.3.3.7, 5.33.25 and 5.5.8. He added it would be a burden on the racing office to track and implement these, if adopted. Two of our top catch drivers elected to be owners and have somebody else train their horses; and they raced against each other in the very next race. It is the appearance of impropriety on the program. Mr. DiMario commented that it is a shift in the industry; New York has uncoupled entries, and California has done it for years. Mr. Egger added that California allows overnight entries for their races, and it looks terrible to people gambling those races. Mr. Lockhart summarized that most people on the sheet will probably not create many problems. Mr. Egger liked suggestions (b) and (c); they are simple and easy. Mr.

Boese agreed to the language in 5.3.3.2.5, but asked if “trainer” shouldn’t be “person.” Chairman Steele said no, because it relates to the language in each section; it would have to be done for each one. Everyone will have to work together in the racing office to implement this. Mr. Boese moved to adopt suggestions (b) and (c); Mr. Lockhart seconded; Mr. DiMario opposed. All others were unopposed. Mr. Kerber will work up final language for discussion.

#### NEXT RULES MEETING

Mr. Lockhart moved that the committee not meet again until the call of the Chair; there was general agreement.

#### UPCOMING EVENTS

##### ➤ **Regular Meeting**

May 11 – H’ton Raceway

##### ➤ **Rules Committee**

None set – Dept. of Ag

#### ADJOURNMENT

At 11:45 AM, Commissioner Staats moved to adjourn, Ms. Craft seconded, and the Motion passed unanimously.

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